

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 21-0650V

MICHAEL SWEENEY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 8, 2024

Rhonda Lorenz-Pignato, Shannon Law Group, PC, Woodridge, IL, for Petitioner.

Meghan Murphy, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On January 12, 2021, Michael Sweeney filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). On July 14, 2022, Petitioner filed an amended petition. Petitioner alleges that he suffered a shoulder injury related to vaccine administration (“SIRVA”) resulting from an influenza vaccine received on or about November 24, 2019. Amended Petition at 1. Petitioner further alleges that the vaccine was administered in the United States, he suffered residual effects of his injury for more than six months, and neither Petitioner, nor any other party, has ever filed an action or received compensation in the form of an award or settlement for Petitioner’s vaccine-related injury. Amended Petition at ¶¶ 2, 22, 25, 26. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims’ website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

On November 16, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On March 8, 2024, Respondent filed a proffer on award of compensation ("Proffer") indicating Petitioner should be awarded \$41,000.00, plus funds to satisfy a Medicaid lien. Proffer at 2. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner the following:**

- A. A lump sum payment of \$41,000.00 (in pain and suffering) in the form of a check payable to Petitioner; and**
- B. A lump sum payment of \$388.06, representing compensation for satisfaction of the State of Illinois Medicaid lien, in the form of a check payable jointly to Petitioner and:**

**Equian
P.O. Box 182643
Columbus, OH 43218-2643
Federal Tax Identification Number 27-0083277**

The Equian Event ID associated with this case is 68360259.

Petitioner agrees to endorse the check to Equian for satisfaction of the Medicaid lien.

These amounts represent compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

Respondent proffers that petitioner should be awarded **\$41,000.00** in pain and suffering.

See 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy the State of Illinois Medicaid lien in the amount of **\$388.06**, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Illinois may have against any individual as a result of any Medicaid payments the State of Illinois has made to or on behalf of petitioner from the date of his eligibility for benefits through the date of judgment in this case as a result of his alleged vaccine-related injury suffered on or about November 24, 2019 under Title XIX of the Social Security Act.

The above amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following¹:

- A. A lump sum payment of **\$41,000.00** in the form of a check payable to petitioner; and
- B. A lump sum payment of **\$388.06**, representing compensation for satisfaction of the State of Illinois Medicaid lien, in the form of a check payable jointly to petitioner and:

Equian²
P.O. Box 182643
Columbus, OH 43218-2643
Federal Tax Identification Number 27-0083277

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future, unreimbursed expenses, future lost earnings and future pain and suffering.

² The Equian Event ID associated with this case is 68360259.

Petitioner agrees to endorse the check to Equian for satisfaction of the Medicaid lien.

Respectfully submitted,

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Principal Deputy Assistant Attorney General

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Director
Torts Branch, Civil Division

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/s/ Meghan R. Murphy
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DATED: March 8, 2024